

Transactions *of* The Chartered Surveyors' Institution

SESSION 1944-45.

AT THE ORDINARY GENERAL MEETING

Held at the Chartered Surveyors' Institution on Monday, 28th August, 1944.

Mr. JAMES BARR (*President*) in the Chair.

NEW MEMBERS.

The following new members were received by the President prior to the meeting and signed the Register:—

Professional Associates :

HADDOW, ROBERT CAMERON

HOW, CHARLES WILLIAM

NAY, JOHN STEWART

SCHRODER, ALBERT EDWARD

SINGER, GEOFFREY

SYMONDS, DONALD

THE DISCUSSION was resumed on the ADDRESS given by The Rt. Hon. SIR WILLIAM JOWITT, K.C., M.P., Minister without Portfolio, at the Ordinary General Meeting on Tuesday, 18th July, 1944, on "The Government's White Paper on the Control of Land Use."

"THE GOVERNMENT'S WHITE PAPER ON THE CONTROL OF LAND USE."

THE PRESIDENT, in calling upon Mr. J. D. TRUSTRAM EVE (Fellow) to open the resumed discussion on the address given by the Rt. Hon. Sir William Jowitt, K.C., M.P., Minister without Portfolio, on 18th July, 1944, said that the new Town and Country Planning Bill was a highly important measure, and one on which the Government would look to the Institution for help and guidance.

Mr. J. D. TRUSTRAM EVE (Fellow) said that on the previous occasion the Institution had had the great honour of having Sir William Jowitt, a Minister of the Crown, present to address the meeting. In addition to being an honour it was also an opportunity—an opportunity for members of the Institution to get their words directly across to the Government on a subject on which some, at least, of them held very strong views. Unfortunately Sir William had had other business to transact, and after the first two batsmen had completed their innings, the other side retired, and the discussion was being continued that afternoon in their absence! He hoped that what was said on the present occasion would be conveyed to Sir William, so that he would have an opportunity of knowing what the "back benchers" of the Institution really thought, and so that the Institution's views could be put before him in the vulgar tongue, instead of in the polished phrases of the excellent memoranda which the Council from time to time sent to various Government departments.

The Government's White Paper on the Control of Land Use and the Town and Country Planning Bill together formed a vast subject for discussion. It had therefore been arranged that he should deal primarily with the White Paper, while Mr. Bull, who was to follow him, would deal primarily with the Bill. The White Paper, the language of which was in places very vague, itself covered so large a field that it was difficult to deal with it in a reasonable space of time. It was his task in opening the debate, however, to cover the whole field. When playing skittles, before it was possible to indulge in the fun of knocking them down, it was necessary to go through the tedious process of setting them up. He would ask members to bear with him, therefore, while he set up the skittles.

It was impossible to discuss the White Paper without referring to the Uthwatt Report. There was in the Chair that day a member of the Uthwatt Committee, but even if that had not been so they would all wish, as surveyors, to congratulate that Committee on its masterly analysis of the confusing principles of compensation and betterment.

The Uthwatt Report dealt primarily with six matters: developed areas, undeveloped areas, the annual site value scheme for betterment, compensation generally, the procedure for compulsory acquisition, and the central planning authority. Developed areas and procedure for compulsory acquisition were covered by the Bill, on which Mr. Bull would speak. Compensation generally, apart from the development rights scheme, was covered in part by the Bill, and in part had not as yet been mentioned by the Government at all. The three questions with which he proposed to deal, therefore, were the development rights scheme on undeveloped land,

the annual site value scheme, and the central planning authority. The White Paper also dealt with the centralisation of compensation and betterment and with "the reserve power of public acquisition."

Regarding the development rights scheme, the Uthwatt Committee had proposed a universal prohibition on development of undeveloped land outside towns, and attached to that scheme were two relatively minor but nevertheless important matters, namely the global method of universal and immediate compensation and the development by leasehold principle when the land was ripe for development. The White Paper, in spite of trying to convey a contrary impression, accepted, he suggested, the principle of the development rights scheme. The Uthwatt Committee proposed a universal prohibition against development; the White Paper suggested a universal requirement to obtain consent to develop. Leaving out ancillary matters, he thought there was no difference between the two phrases.

It was possible to go further and say that neither the Uthwatt Report nor the White Paper was suggesting anything new. Under the Town and Country Planning (Interim Development) Act of 1943 there was already a universal prohibition on development, at least in those areas where a resolution to prepare a plan had been passed or deemed to be passed under the Act. It did not extend, of course, to those areas where a plan had already been approved by the Minister; there it was possible to develop without consent, provided one developed within the plan. There was therefore nothing new in the proposal itself; it was only in the additions or appendices to the scheme that anything novel arose.

The global method was rejected by the White Paper, and he thought that every member of the Institution—with two exceptions, of course—would be glad. Instead, the White Paper suggested that another Expert Committee should be appointed to decide what the basis of compensation should be. If that proposal were accepted the result would be not only delay, but all the uncertainty in dealing with land which was so damaging to any enterprise in land development. One had only to recall the uncertainty in 1909, under Mr. Lloyd George's land tax proposal, and the devastating effect which that had on the development of land for housing. The White Paper did accept, however, the proposal for reduction in the compensation payable for prohibition against development by reason of floating value.

The White Paper also rejected the leasehold development system. Many members of the Institution would be glad to see that go, although opinion within the Institution with regard to it was divided. The White Paper proposed instead the freehold method of development by the private developer, on payment of a betterment charge of "80 per cent. of the increase in the value of the land due to the granting of the permission."

The White Paper rejected the immediate and universal payment of compensation. The Government accepted that only for the "green" land, and rejected it for the "white" land and "built-on" land, for which compensation would be paid only when the owner showed that he was able and willing to develop, or that the action or proposals of the planning authority were otherwise such as to prevent the development of the land. It thus appeared that the only land which would receive any compensation would be that ripe by the effluxion of time or by the effect of deliberate planning provisions. Contrary to the Uthwatt recommendation, the White Paper proposed to extend the development rights scheme to built-up areas.

For the administration of the White Paper scheme, the land was to be divided into "green" land, "white" land and "built-on" land—a new expression which needed definition. On the "green" land "immediate" compensation was to be paid, and by "immediate" the White Paper meant in five years' time, which, added to the five years of the war, made ten years after the last chance of developing. So far as the "white" land was concerned, compensation was to be paid only when, as already mentioned, permission to develop was asked for and refused.

How was the boundary between the "green" and the "white" land to be fixed? So far as the "green" land was concerned, the White Paper said "the presumption will be that the land had no development value." He assumed that was a legal expression, meaning that the onus was on the owner to prove that the land had such value. He proposed, therefore, to ignore those words, but he would like to know whether he was right in doing so. If a District Valuer were appointed to draw the dividing line on the map, what would guide his pen? What did "substantially no development value" mean? Unless some strict rules were laid down, each District Valuer would interpret the words in his own way. Did "substantially no" mean 20 per cent. or 30 per cent.? Did it vary according to the value of "ripe" land in the neighbourhood? It seemed to him that there was going to be great difficulty and hardship in fixing the line. The White Paper criticised the development rights scheme in the Uthwatt Report, by which an arbitrary line was to be drawn round towns, on the ground that it would be unfair to land lying on one side or the other of that arbitrary line, yet the White Paper itself proposed another arbitrary line which would be even more difficult to fix and would create just as much hardship.

Two other ways of fixing the line occurred to him. One was that an attempt should be made to fix it so that the "green" land contained no development value at all, and only if the District Valuer made a mistake could the owner of such land make a claim. Whether that was the intention of the White Paper he was not sure. Better still, the line might be drawn according to planning requirements, the intention being to regard as "green" all land which was not required for planning within a measurable period. If it was to be a planning line, there was a certain amount of sense in making the compensation for the "green" and the "white" land different. "Green" land would then include a large amount of land with high development value, because the latest theory for green belts was not to have an equidistant belt running right round the town, but to have a star-shaped development with the green belt extending well into the urban district, so that people might quickly reach it and the surrounding country. If, as he believed, that was good planning, and if his assumption that the line would be a planning line was correct, then many people would receive immediate compensation, because the decision whether compensation should be paid immediately or only when it could be proved that land was ripe for development would depend on whether the land was likely to be required for development in the foreseeable future.

What was the definition of "built-on" land likely to be? For instance, land with a house on it was obviously "built on," but what about a sports ground with a pavilion in one corner? Again, suppose in the case of a house with five acres of garden, one wished to sell off two; were those two acres part of the "built-on" land or not? Such matters would need definition

in any prospective legislation because they would affect both compensation and the calculation of betterment.

With regard to floating value, both the Uthwatt Report and the White Paper said that it was wrong to pay compensation to owners of land at a figure which would include the "floating value." Did the authors of the White Paper really understand the subject? Paragraph 23 of the Uthwatt Report stated:

"The hoped-for building may take place on the particular piece of land in question, or it may take place elsewhere; it may come within five years, or it may be twenty-five years or more before the turn of the particular piece of land to be built upon arrives."

Again, in paragraph 24:

"Potential value is necessarily a 'floating value,' and it is impossible to predict with certainty where the 'float' will settle as sites are actually required for purposes of development."

The difficulty he found lay in the word "settle."

He thought the paragraphs conveyed an entirely wrong picture. It may have been right in the time of Henry George and Lloyd George, both of whom held the theory that owners of land simply waited until development happened to take place, and had no right to the profits. But between the two wars, the facts presented an entirely different picture. A man did not play a game of chance when he bought land for development; he bought because he backed his own enterprise, and knew that by expending money on improvements and publicity he could force development to come to that particular land. If the non-payment of the full market value was based on the "Georgian" theory, the theory should be re-examined.

Paragraph 16 of the White Paper summarised the Government's scheme. The last sentence of sub-paragraph (f) stated:

"Fair compensation will avoid any excess over true development value due to the element of 'floating value'."

That paragraph was expanded somewhat in paragraph 26, where the last sentence read:

"Further they accept the principle that the compensation so paid should not be swollen by the inclusion of any excess over true development value due to the element of 'float'; for otherwise compensation would be paid for more than the real loss incurred."

It was some eighteen months since the Uthwatt Report was published, and during that time the Government's mind had slipped so far from the truth that they could make that statement. It might be true to say that it was wrong to pay the owner his full loss because of this or that, but to say that to pay him his full loss would be to pay him more than his real loss was going a little far, because it was certainly not true.

Paragraph 32 of the White Paper, dealing with the setting up of the new Expert Committee, stated:

"They will be asked to examine the possibility of classifying the individual valuations under appropriate categories in the light of the information regarding likelihood of development recorded by the valuers; and of graduating the formula for compensation accordingly, with particular reference to the question of 'dead ripe' land."

It would be recalled that the Uthwatt Committee were a little shaky on their theory of "float" when they got to "dead ripe" land, and advocated

that it should receive the full value. Were the Government suggesting the same thing?

Sir William Jowitt had said in his address "That element of floating value we all want to avoid." Was that true? Did the Institution really think that the element of floating value should be eliminated from compensation? Should Farmer Jones, who paid £50 an acre for his land when it was worth only £30 for agriculture, be paid his £20 difference, or one-third or one-half of it, as the Uthwatt Committee suggested? Was the criterion of compensation still to be market value or was it to be something less. The criterion suggested by the Uthwatt Committee and adopted by the White Paper was in effect the value to the purchaser, because they said that it would be unfair on the community, as the purchaser, to pay more than the development rights were worth to the community. When the railways were being constructed in this country, a suggestion that compensation should be the value to the purchaser would not have met with much approval. Now that suggestion was adopted because it would pay the purchaser.

Regarding betterment, the White Paper suggested that the Uthwatt proposal for a 75 per cent. betterment tax on the annual site value increments should be discarded. The Institution would doubtless support that rejection, because the proposal was impracticable and did not produce a fair datum line. The White Paper mentioned a number of other reasons, but that was the main one. There might be nothing wrong with the 80 per cent. as a principle, but was 20 per cent. profit, instead of 100 per cent., enough to allow and encourage private enterprise to operate? One could say that private enterprise should receive nothing if one could be sure that it would still operate. Sir William Jowitt had invited views on that point.

The important point about the betterment proposal was that it should balance not only in money and percentages, but in principle, with the compensation proposal, otherwise inequity would result. An owner might even make a profit out of it. If the Expert Committee found that ripe land should receive 100 per cent. compensation, and on receiving consent to develop the owner paid only 80 per cent. betterment, he would make, presumably, a profit of 20 per cent. On the other hand, if an owner received, as the Uthwatt Committee suggested, only one-third to one-half of his value and then had to pay 80 per cent. to the Government, he would incur a heavy loss.

The White Paper excluded from compensation any matters which would be excluded under Section 19 of the Town and Country Planning Act, 1932. Suppose under zoning the number of houses per acre on a piece of land were reduced from twelve to eight, there would be no compensation under the Minister's usual procedure under Section 19 of the 1932 Act; but if five years later the planning authority quite properly stepped it up from eight houses to twelve to the acre, an 80 per cent. betterment charge would presumably be payable. It would certainly be the case if there was a change from houses to factories. Stepping down and stepping up in zoning, therefore, must receive the same treatment.

In the centralisation of the compensation and betterment fund it was clear beyond question that there was to be Treasury control of planning. Paragraph 16 (i) of the White Paper stated:

"This proposal has been framed on the assumption that the control of the use of land will be so managed that over a reasonable period of years, and over the country as a whole, receipts of betterment charge will broadly balance the payments of fair compensation."

If that was not Treasury control of planning, he did not know what was.

The centralisation of compensation was excellent, because it would remove from local authorities all fear of large and unknown claims for compensation. It would also cover such problems as the sterilisation of the Cornish cliffs, which was obviously a national and not a local matter. But having got what many of them had been asking for for years, surveyors now found themselves in a difficulty, because the proposal involved Treasury control of planning.

Dealing finally with the proposal headed "Reserve Power of Public Acquisition," Mr. Eve said that it meant that if an owner held up proper development by refusing to sell his land or to develop, the local authority could acquire it and dispose of it to a fresh person who would be prepared to develop. The proposal was revolutionary, but, he thought, essential. It was the biggest thing that had ever happened in planning, and the only cure for ribbon development and for haphazard, leapfrog development. By its aid a planning authority could secure ordered development.

To sum up, as he saw it, the White Paper omitted most of the more obnoxious parts of the Uthwatt Report, but it was full of fine words, and even of contradictions, which needed careful study. It failed to understand the effects of its development rights proposals, and it would, in his opinion, lead to administrative muddle. It failed to deal with the amendment of the Act of 1932, and then put the cart before the horse. It was impossible to deal with compensation and betterment or with the location of industry until a decision had been taken on how planning was to be done. There was general agreement that the 1932 Act administration was bad and that something must be put in its place. He was in favour of full compensation and full betterment, accompanied by slick administrative planning, with frequent opportunities for amendment. That would give certainty in planning, which was what was necessary. There was a danger at present of slipping into permanent interim development machinery, as the 1943 Act, which should have been called the Permanent Interim Development Act, showed.

The Chartered Surveyors' Institution was the one body capable of telling the Government fully what the effects of their scheme would be. Members of the Institution covered every aspect of the valuer's profession. Other bodies might deal with part of the subject, but the Institution was the one body dealing with the whole.

The Institution should speak with one voice, and make that voice heard in no uncertain way.

Mr. W. E. A. BULL (Fellow) said Mr. Eve had finished his speech at the point where he had intended to open his own. It was interesting to consider the many and devious ways of killing a criminal, but first it was necessary to have a criminal to kill. The Planning Bill and the White Paper discussed the procedure for implementing the plan, but where was the plan? What surveyors required urgently was a plan. They wanted to know where industry would be located, whether big towns were to become larger or

smaller, what was the housing policy of the Government, whether private enterprise was to be allowed its full share, and the answers to many other questions. Would it be possible to rebuild premises which had been destroyed? Private enterprise was constantly considering what contribution it could make to post-war housing, and discussions always ceased with no possibility of reaching a decision because nobody knew the Government's intentions. The air was full of plans, but, unlike flying bombs, they did not come to earth.

His task was to deal with the Town and Country Planning Bill, but he would like to make one or two observations on the White Paper. Sir William Jowitt had said that it was unfair retrospectively to deprive owners of the value of their development rights without fair compensation. Put in that way, it seemed obvious to the man in the street that fair compensation was the value of the development rights, and not something less. It was unfair to deprive anybody retrospectively of anything; but to reach the stage where fair compensation could be regarded as something less than the value which was being taken from the individual was to have gone very far indeed.

The effect of the postponement of the payment of compensation for five years seemed to him disastrous, unless it was intended that private enterprise should make no contribution to post-war housing. A betterment levy was to be made on the owner of land to whom the right to develop was granted. A builder or developer owning the land had his betterment levy assessed upon him, but he had no idea, and would not have for more than five years, what compensation he was to receive. How could he possibly fix a selling or letting price for his houses or flats when he did not know the extent of his total costs? It should not be forgotten that the person who would ultimately pay the difference, if there were any, between compensation and betterment, was the purchaser of the house, the price of which would be increased.

The present Town and Country Planning Bill was designed to deal primarily with what were known as the "blitzed" and the "blighted" areas. From the surveyor's point of view, the Bill fell into three main parts: the procedure for acquiring and vesting land, whether "blitzed" or "blighted," in the local authority; the powers of the authority for disposing of the land; and the compensation proposals. He proposed to confine himself mainly to the latter.

It should be remembered that the "blitzed" area which the authority might acquire was not confined by any means to the actual seat of damage. An area designated under Clause 1 might include not only the damaged land and the fringe or additions necessary for good planning, but also an "overspill" area for the reinstatement of persons thus dispossessed. The compensation provisions would therefore apply to a large class of properties, and not merely to bare sites.

The compensation provisions were based on a recommendation that the basis of value should be the March, 1939, prices, with two saving clauses providing for such percentage additions as might be specified by the Treasury for two classes of persons: owner-occupiers of residential property within the Rent Restriction Acts and owner-occupiers of agricultural property. It was axiomatic in English law that not only must justice be done but that justice must be seen to be done, and he thought that the Bill came as near as any Bill could to setting down in black and white that it was not proposed

to do justice. What justification could there be for providing that certain limited classes of persons were to receive more compensation than the generality—unless, perhaps, the justification that there were a great many such persons who might benefit? In other words, it would be a political justification, and meant that either a large number of small people would get more than they ought to have, or that the other people would get less than they should receive. That in itself condemned, from the surveyor's point of view, the compensation proposals in Clause 45.

The Institution had already expressed its views on the proposal that the 1939 standard should be the basis of compensation, and he fully associated himself with those views. Not only was there the practical difficulty of the valuer casting his mind back to 1939 and taking into account circumstances which existed then, but which now no longer existed, but it was fundamentally unsound to adopt any basis other than the current market value at the time of the notice to treat, or when the notice to treat was deemed to have been served. That was a standard with which all valuers could acquaint themselves, whether they had the requisite practice in 1939 or not. Moreover, in his view, it was fair.

It had often been said that an increase in building costs would depreciate site values. He believed that to be true only if building costs increased at a time when all other values remained static. There had undoubtedly been a general depreciation in the value of money. The price of cloth had increased, but the prices of the other components of a suit had not decreased for that reason; the total selling price of the suit had gone up so as to allow for a proportionate increase in the cost of all its component parts. Land was only one component of the completed building, and in a world where values had changed throughout it would be strange if land were the only commodity which had decreased in value or remained static.

It was unfair that acquiring authorities should be given powers to buy land at 1939 prices, and he adhered to that view even though 1939 values might in some cases prove higher than the current market value. Sir William Jowitt had said that the War Damage Act provided the 1939 standard for value payments, and it would be anomalous that local authorities should pay more. An injustice in the War Damage Act was no reason for perpetuating that injustice in a later measure. It seemed to be generally forgotten (though mentioned by Mr. Coombe at the meeting in July) that when the 1939 standard was first proposed by the Uthwatt Committee on the Principles of Assessment of Damage, there was an addendum providing for some addition to that standard. Section 11 of the War Damage Act provided for a possible increase in the amount of value payments. Everyone hoped that the Treasury would use its powers to direct a percentage increase in the amount of value payments, and so do something to redress the present invidious unfairness between cost-of-works payments and value payments under the Act. If that were done, and the owner of a blitzed property received his value payment plus a percentage, he should equally get such percentage as might be reflected in the market value when his site was acquired.

The injustice of 1939 prices would obviously be much greater when it came to property in the "overspill" or fringe areas. That local authorities should be able to acquire completed buildings and land at less than market value,

when the dispossessed owner might have to go and replace in the open market at current value, was so unfair that it hardly needed emphasis. Yet that was the intention of the Bill.

A very rapid procedure was provided in the Bill for the acquisition of "blitzed" and "blighted" areas. Under Clause 1 a local authority could designate an area, and, following a local inquiry, if the order were confirmed by the Minister, the land could be vested in the authority merely by a vesting order. That was bad enough, but Clause 2 provided that in cases of extreme urgency no local inquiry need be held. All that the local authority need do was to insert an advertisement in the *London Gazette* and in the local papers. If the owner did not happen to see those notices, he might find that his property had vested in the local authority without his knowledge.

It was a position which called for protest. The justification was said to be urgency, and difficulty in ascertaining who were the owners and interested persons. There would certainly be urgency in dealing with the war-damaged areas, but there must be in the hands of the War Damage Commission nearly all the information necessary to enable local authorities to serve the owners with notices of their proposals and with notices to treat. With regard to the blighted areas, which were merely areas of bad lay-out and development, there would be, he suggested, ample time to follow the normal procedure when they came to be dealt with at a later stage.

Major T. Cook (Fellow) wished to underline the planning aspect already mentioned by Mr. Eve and Mr. Bull. That aspect was fundamental to all proposals, whether for planning or for compensation. Mr. Eve had asked how the arbitrary line was to be drawn; how would it be possible to draw it unless there was a plan? Mr. Bull referred to the conduct of the negotiations necessary to the acquisition of land for development; how would it be possible to conduct such negotiations without the opportunity of reference to some plan? At present, there was no plan. As Mr. Eve had said, it seemed likely that there would be a permanent interim development order, because there was nothing else in view.

At a discussion at the Institution over ten years ago on the 1932 Act, he had said that the effectiveness of that Act would depend upon its administration, and had expressed the fear that it would not, therefore, become an effective measure. Events had shown his fears to be justified.

What were the reasons for the ineffectiveness of the 1932 Act? He thought there were two main reasons: first of all, the smallness of the planning unit, and secondly, the entire lack of central control provided for by the 1932 Act. That statement was justified by figures given by the Minister of Town and Country Planning in the House of Commons on 2nd August last, when he was asked how many schemes had been submitted to him, how many had been approved, and in how many cases had a local inquiry been made. There were some 1,500 planning authorities in England and Wales.

The Minister had replied that there had been 157 schemes approved after local inquiry, and that there had been local inquiries in 122 other cases in relation to which the schemes had not been approved; so that on the evidence of the Minister himself, out of 1,500 planning areas 157—roughly 10 per cent.—had been subject to approval, while in the other 90 per cent. the position

was unknown. The figures given were for the ten years subsequent to the passing of the Act. How could anyone attempt to assess compensation in any given case, in respect of "white" or any other land, without some knowledge of the intentions of the local planning authority?

Destructive criticism was no use, however, unless accompanied by constructive suggestions. He thought the remedy for the previous failure was to cut out the small unit and substitute a larger unit, consisting of a county or even two or three counties, with the creation of planning panels in those counties. Obviously the failure of central control lay in the fact that it was a physical impossibility for the Ministry of Health or the Ministry of Town and Country Planning to cope adequately with the vast centralisation of work. The result was merely intolerable delays.

By the creation of the larger planning unit it should be possible to get rid of the purely local interest, divorced from any national interest; and, if it were possible to provide county panels to give approval, subject to the central authority, to have a series of plans to which reference could be made, and which themselves, by reason of the larger units concerned, should have a sufficiency of the national element to justify them. Sir William Jowitt had said that the national aspect could be overstressed; he agreed. On the other hand, the purely local, sectional interest should never be allowed to prevail, as it did to-day.

Mr. P. J. WALDRAM (Fellow) said Sir William Jowitt had expressed a keen preference for local as compared with central town planning. If that preference were shared by Ministers generally, it was to be hoped that allowance would be made for, and due precautions taken against, one temptation to which local authorities were particularly liable—the temptation not merely to prejudice what was probably the most important aspect of town planning, but even to reverse it, and to encourage and legalise that which the Act was expressly intended to prevent.

Ninety per cent. of town planning was directed to prevent over-building and congestion in the future development of cities, towns, suburbs and villages, and to do what little was possible to alleviate the existing congestion. Over-building doubtless started in the early days when to be within city walls spelt safety. It had continued throughout the ages until to-day, when urban congestion meant danger rather than safety. Old prejudices and values took a long time to die, however, and it would probably take several generations before central urban building sites would cease to command high and even fantastic values. Modern town planning was mainly directed to curb the not unnatural desire of landowners to crowd as much letting space as possible on to costly urban sites.

Local authorities, however, in spite of being the official custodians of communal amenity, health and well-being, were subject to the same temptation. Improved social services made, and would continue to make, ever-increasing demands on local rates, and a fatally easy and attractive method of increasing local revenue was to permit, under the inevitable waiver clause in every scheme, the crowding on to urban sites of as much rateable floor space as possible. What was permitted under a waiver clause to *A* would be claimed as of right by *B*, *C*, *D* and *E*. Thus over-building and unhealthy congestion were perpetuated and legalised under the very Act intended to prevent them. In addition, whatever interpretation was

put by the responsible local authorities upon communal rights of light and air under the Act could scarcely be disregarded by the Courts in the administration of the somewhat vague law of individual rights of light.

It was imperative that restrictions on over-building proposed by local authorities under their town planning schemes, all important to future generations, should be scrutinised rigorously and suspiciously by the Ministry of Health and by Parliament before they were authorised, because although they might, and probably would, be relaxed under waiver clauses, they were never likely to be stiffened. Each district should have its own simple standard of permissible obstruction of maximum height at minimum distance, and this should be applicable to every class of building, whatever its proposed user.

In particular, he suggested that the community at large should be given statutory facilities and inducements to protect local amenities in light and air against short-sighted administration of waiver clauses. That could easily be effected by a short clause in the Act requiring that every case of proposed increase, under a waiver clause, of permissible limits of height, proximity, site cover, or other increased obstruction to light and air should be advertised and made subject to appeal by any ratepayer, without cost, to a public Ministry inquiry.

Mr. K. E. B. GLENNY (Fellow) said that chartered surveyors were, by their training, especially well-equipped to deal with the subject. It was they who would have to work the Act, and they should play their part in trying to make it a practicable one.

He thought most members must have felt relieved when they read the White Paper and saw that the global valuation had gone, that the proposal for the acquisition of development rights had gone, and that the leasehold proposals had gone.

Much had been said about "floating value." No-one would deny that floating value existed, but he thought there were very few of his own generation who subscribed to the doctrine that it was paid. He felt that they had been rather hardly dealt with in the Uthwatt Report with regard to floating value, at any rate so far as his generation were concerned, and he suggested that the reason for that was that many people who discussed floating value were thinking of valuations in Victorian terms. Most people associated it with value to the owner, and in his view that was what it really was; market value plus floating value was the value to the owner. People in Victorian days became so used to considering valuations on the basis of value to the owner that it became part of their normal practice, whereas the practitioners of to-day, brought up within the limits of the Acquisition of Land Act (in other words, fair market value), had almost entirely eliminated floating value in any valuation they made where the public was concerned. Floating value was the price they asked, but market value was what they expected to get. Floating value was not in fact paid, and his generation of surveyors were definitely opposed to it and did not agree with the evidence submitted that it was in fact paid. He had always thought that it was a gross criticism of their profession to say so.

He felt that on the whole the White Paper was a good one. There were criticisms to be made of it, but he was of opinion that the proposal to make valuations in five years' time was a good way out. It met the criticism of

the lack of public demand, because at the end of five years they would know what the public demand in all respects had been, and things would then be on a more even keel and they would be able to make proper valuations again.

Mr. R. A. BIGHAM (Fellow) thought that action was urgently required, and that there would not be time for arbitrations and for detailed discussions on the values of individual properties.

If every scheme which went forward had to include notices to treat, public inquiries, arbitration on individual claims, and so on, and if that applied to every town planning scheme for every derelict area in the country, it would not be possible to replan our towns and cities within the next twenty years. He hoped, therefore, that the discussions of the Institution would be directed towards producing to the Government a quick way of dealing with the problem. He would like to suggest that the Council should put forward constructive suggestions to this end, irrespective of the criticisms that would undoubtedly arise.

Mr. D. M. LAWRENCE, B.SC. (Fellow) referred to the reserve power of public acquisition mentioned in paragraph 16 of the White Paper, and said there was a good deal of difficulty in understanding exactly what was meant. It was proposed that very wide powers should be given to local planning authorities under Clause 10 of the Town and Country Planning Bill, and those powers included power to acquire land—

“as a site for development of a class which is needed for the proper planning of the area of the authority . . . in order to secure a proper balance between development of that class and development of other classes.”

One would have thought that the very wide power there given would have been sufficient to meet any case where good planning was being held up by the refusal of an owner to make his land available. Yet from the wording of paragraph 18 of the White Paper it seemed that what was intended by “reserve power of public acquisition” was something which went beyond the special powers in Clause 10 of the Bill. What exactly was intended? One possible interpretation might be that local planning authorities generally were to be given an almost uncontrolled power at their own discretion, or at that of the Minister of Town and Country Planning, to acquire land wherever they thought it necessary to do so, in much the same way as Government departments had been able to requisition land for war purposes. He did not think that was the intention of the proposed power, but it seemed that a clear definition should be given by the Government before that part of the White Paper could be discussed any further.

On the question of deferment in the payment of compensation, so far as could be gathered from the White Paper, the main idea of deferring the payment for five years was to enable the Expert Committee which was to be appointed later, to eliminate by means of some sort of formula not clearly indicated, the factor of floating value. It seemed to him that while floating value might have been of considerable importance under the Uthwatt proposal to acquire the whole of the development rights in undeveloped land—because, of course, one might conceivably pay for development value on land which subsequently was not developed at all—

it had nothing like the same importance under the proposals in the White Paper, where no compensation would be paid at all until development actually took place. In the latter case the element of floating value was practically eliminated. The only case in which compensation would be paid in the case of "white" land would be where the owner actually showed that he was willing and able to develop. That would seem to show quite clearly that that particular land was ripe for development, and that there was not in its value any purely speculative value which might not afterwards be justified by events.

He could not understand why the owner of "green" land at the end of five years should be able to claim compensation straight away, whereas the owner of "white" land would be able to claim it only when he showed that his land was ripe for development. It might be that he had interpreted the meaning of "green" land in a somewhat different sense from that of Mr. Eve, and that he had been influenced by the term "rural land" in the description of the land which was to be called "green" land. He had thought of it as mainly country land which in certain cases, e.g., when situated fairly near a town, might have a certain amount of development value in it. That seemed to him to be just the type of land where, if floating value existed at all, it was mostly likely to be present, and it would therefore seem reasonable that the owner of "green" land, in precisely the same way as the owner of "white" land, should have to wait for his compensation until he could prove that his land was absolutely ripe for development.

It was a matter for regret that the White Paper made no suggestion at all for the consolidation of the law relating to compulsory purchase and the control of land for development purposes generally. As was well known, there were two aspects of compulsory purchase; one the question of obtaining compulsory powers, and the other the question of the exercise of those powers. A procedure for the first was already laid down in the Local Government Act of 1933, and it seemed time for that procedure, which was fair and reasonable, to be applied to all cases of compulsory acquisition for public purposes.

It was in the actual exercise of the compulsory powers, however, that consolidation was most needed. Here the procedure was governed partly by the Lands Clauses Act of 1845—which was designed to deal mainly with the acquisition of land by bodies trading for profit, such as railways and canals—partly by the Acquisition of Land Act, 1919, and partly by numerous provisions which had been inserted in various Acts from time to time, modifying the Lands Clauses Act procedure on such points as entry on land, and the taking of part only of a property. He thought it would be generally agreed that there was no reason for any distinction nowadays between the acquisition of land by a body trading for profit and the acquisition by purely public authorities. The time was ripe for providing one general code of compulsory purchase law regulating the exercise of compulsory powers in all cases where land was taken for purely public purposes.

He thought the objections which were generally raised to that suggestion were weak. It was said that certain words in those Acts had been defined by decisions in the Courts, and that confusion would arise if they were abandoned, but it should be a simple matter to include the appropriate definition in the consolidating Act, or, if the interpretation had created difficulties, to amend it in the consolidating Act. He had the greatest

possible respect for the skill and ingenuity of the Parliamentary draftsmen ; whenever it took him half an hour to find out what a clause in a Bill meant, he always thought how much more difficult it must have been to draft the clause. He felt, however, that that skill and ingenuity could much better be employed now in providing a straightforward consolidating code of law regulating compulsory acquisition, rather than in producing the obscure provisions which were to be found in the Town and Country Planning Bill.

Mr. RONALD COLLIER (Fellow) emphasised the urgent need for a plan. He suggested that the Institution should avail itself of the provisions of Section 6 (1) (b) ⁽¹⁾ of the Town and Country Planning Act, 1932, and co-operate with the Royal Institute of British Architects and others to form panels in local areas, or in county areas if that was appropriate, to prepare and submit schemes to local authorities. They could get such schemes adopted by the ratepayers before submitting them.

He hoped that the Branches would hold independent debates on the White Paper because it was obvious that as many minds as possible had to be applied to the problem in the shortest possible time.

Mr. V. NOEL CHESTER (Fellow) said that the White Paper referred to compensation as a "suitable set-off" against betterment. It was necessary to know a good deal more about what a "suitable set-off" was likely to be. If compensation were to be deferred for five years, justice could not be done unless the collection of betterment were also deferred in the same way ; because in every case where betterment was likely to be payable there would certainly have been a claim for compensation on refusal. In his view both compensation and betterment should be postponed for five years.

Surveyors concerned with land development were at the moment anxious about the position of their clients, some of whom had paid high prices for land, and had spent a good deal of money on it since. How could compensation possibly be fair unless account was taken, not only of current value (when refusal was made or as set-off against betterment), but also of currency depreciation and of immobilised capital. Sir William Jowitt had said that no individual should be enriched as a result of public policy ; equally no individual should be impoverished.

Account should also be taken of the difference between the pre-war and the post-war cost of the physical acts of development, such as the construction of sewers and roads. Admittedly what he had said referred to "dead ripe" or "near ripe" land, and there had been a hint that in that case there was to be 100 per cent. compensation, but if that was not so the points he had mentioned should be borne in mind.

Regarding the physical acts of development, he suggested that one function of the proposed Land Commission should be to receive recommendations from local authorities that where an enterprising owner incurred expenditure on development, which was not exclusively for the benefit of his own land, an apportionment or assessment could be made on the lands

(1) Section 6 (1) (b) reads " Subject to the provisions of this section, a local authority or a joint committee duly authorised in that behalf may, by resolution, decide (a) (b) to adopt, with or without modifications, a scheme proposed by all or any of the owners of any such land."

of other owners. An example was that of the owner who put in a sewer, possibly in such a position that it benefited an owner who had not been willing to co-operate, and in any case led to land further out. The Land Commission might be empowered to credit the owner with expenditure he had made which was of benefit to somebody else, and debit the other people in due time when their turn came to pay betterment.

Captain E. C. TROTMAN (Fellow), referring to the question of compensation balancing betterment, said it seemed as though the Government had fought shy of the question of the value of land, and consequently to some degree had run away from the issue. They were like people taking up Bridge for the first time and saying "We like the idea of contract, but we had better play auction for five years and then see what is in the 'kitty'; if there is anything there we will divide it up and start playing contract." If there were nothing left in the "kitty," what would the Government do? Would there be another levy to make good the deficiency, or would they scrap the whole thing and start again? He agreed with Mr. Eve that it looked very much like Treasury control, and in that case he was dubious of the final outcome.

THE PRESIDENT emphasised that he was speaking as an ordinary member of the Institution and not as President. There was, he said, a perfect labyrinth to be cleared away before one could see daylight so far as the individual clauses of the Bill were concerned. The first thing, in his view, which members of the Institution might say to the Government was that they failed to understand why the Bill should be submitted and determined without consideration of the legislation to be introduced in respect of the highly important matters in the White Paper on *The Control of Land Use*. The matters to be regulated by the two measures were closely related, and the facts and principles were inevitably intermingled. They could not be considered separately; one was part of the other.

To pass an Act governing town and country planning separately would, in his opinion, cause confusion and prevent uniformity; in fact, he considered it impracticable to do so. If there were going to be planning, and it was said in the White Paper that there was to be certain very heavy taxation on the change of use of land, surely a highly important and novel proposal such as that was part of town and country planning, and could not be divorced from it. The Government seemed to be trying to get the point of the wedge driven through the Town and Country Planning Bill, and then to introduce what they really wanted to do by an Act based on the White Paper.

He did not propose to discuss all the details of the various points which Mr. Eve and Mr. Bull had raised, but he did suggest that if land values went down, and there was a distinct possibility that they might, there might be something to be said for adopting March, 1939, values as the basis of compensation for land compulsorily acquired.

The Institution was very much indebted to Mr. Eve and to Mr. Bull, but they should not have the duty imposed upon them of replying to all the remarks made that afternoon.

The meeting then terminated.